

REMARKS

The remainder of this Amendment is set forth under appropriate subheadings for the convenience of the Examiner.

Information Disclosure Statement

A Supplemental Information Disclosure Statement was filed on May 21, 2004, prior to a first Office Action mailed on June 3, 2004. Applicants respectfully request that the cited references be considered and that the Examiner forward initialed copies of the PTO 1449 forms with the next Communication.

Amendments to the Claims and Specification

To expedite prosecution, Applicants have amended the claims as described below. Applicants reserve the right to continue to prosecute any or all of the subject matter of canceled claims in a continuation application(s). Applicants are not making any admission of lack of patentability of the subject matter eliminated by amendments of the claims.

Independent Claim 1 has been amended to be limited to Claim 7, as originally filed. As amended, independent Claim 1 now recites all of the claim elements of Claim 7 and intervening Claims 2 and 6. Accordingly, Claims 2, 6 and 7 have been canceled.

Claims 3-5 and 9 have been amended to correct dependency. As amended, these claims depend directly from independent Claim 1. Support for these amendments can be found in themselves and in the specification, for example on page 6, lines 14-25.

Claim 8 has been canceled.

Claim 12 has been rewritten in independent form. Claim 12 has been further amended to replace a term "B" with a term "Q."

Applicants have amended the specification to be consistent with the amendment of Claim 12, in which the term "B" is replaced with the term "Q."

No new matter has been added. Acceptance is respectfully requested.

Allowable Subject Matter

The Examiner stated that Claims 7 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In particular, the Examiner stated that the prior art of record does not teach core compositions of the formula of originally-filed Claim 7, i.e., $\text{Li}_x\text{M}'_z\text{Ni}_{1-y}\text{M}''_y\text{O}_2$ wherein M'' includes cobalt and boron, and of the formula of previously-presented Claim 12, i.e., $\text{Li}_x\text{Mg}_z\text{Ni}_{1-y}\text{Co}_y\text{B}_v\text{O}_2$, where a coating on the core has a greater ratio of Co:Ni than the core.

Independent Claim 1 has been amended to be limited to Claim 7, as originally filed. Thus, as amended, independent Claim 1 recites all of the claim elements of Claim 7 and intervening Claims 2 and 6, as originally filed. Claim 12 has been rewritten in independent form, including all of the claim elements of base Claim 1, as presented previously. Therefore, the subject matter of Claims 1 and 12, as currently amended, is also allowable.

Rejection of Claims 1-6 and 8-10 under 35 U.S.C. § 102(b)

Claims 1-6 and 8-10 stand rejected under 35 U.S.C. § 102(b) as being anticipated by JP 2000-149,950 to Kitano.

As discussed above, Claim 1 has been amended to be limited to Claim 7, as originally filed, the subject matter of which the Examiner considered allowable. As amended, Claims 3-5 and 9-10 depend from independent Claim 1, as currently amended. Therefore, the subject matter of Claims 1, 3-5 and 9-10 is allowable.

Claims 2, 6 and 8 have been canceled.

Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

Examiner's Comment on Claim 12

The Examiner stated that the term "B" in Claim 12 is misleading because boron, one of the variables of "B," also is represented as "B."

Claim 12 and the specification have been amended to replace the term "B" with the term "Q," eliminating the misleading.

SUMMARY AND CONCLUSIONS

Independent Claim 1 has been amended to be limited to Claim 7, as originally filed, the subject matter of which the Examiner considered allowable. Claims 3-5 and 9-10 depend from independent Claim 1, as currently amended. Claim 12, the subject matter of which the Examiner considered allowable, has been rewritten as independent form.

Therefore, in view of the above amendments and remarks, it is believed that Claims 1, 3-5, 9-10 and 12 are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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